

**MINUTES  
REGULAR MEETING  
UTILITY SERVICE BOARD  
APRIL 19, 2004**

The Regular Meeting of the Utility Service Board of the City of Jasper, Indiana, was held in the Council Chambers of City Hall in Jasper at 7:00 PM on Monday, April 19, 2004.

The meeting was called to order at 7 PM by Chairman Ken Sendelweck who presided.

**UPON CALL OF THE ROLL, THE FOLLOWING WERE PRESENT:**

Ken Sendelweck – Chairman  
Greg A. Krodel – Vice Chairman  
Edward J. Kreilein – Secretary  
Michael A. Schwenk – Electric Commissioner  
Mike Harder – Wastewater Commissioner  
Dennis L. Hasenour – Gas Commissioner

**ALSO PRESENT:**

Jerry Schitter – Electric Distribution Manager  
Mike Gadlage – Power Plant Superintendent  
Michael A. Oeding – Gas & Water Manager  
Kenneth R. Schultz – Business Manager  
Sandy Hemmerlein – City Attorney

**ABSENT:**

Jeffrey S. Theising – Water Commissioner  
Windell Toby – Electric Generation Manager  
Thomas A. Lents – Wastewater Manager

**PLEDGE OF ALLEGIANCE** (A-25)

Chairman Ken Sendelweck led the Pledge of Allegiance.

**BID OPENING: MINI DERRICK TRUCK – ELECTRIC DISTRIBUTION** (A-37)

Sandy Hemmerlein opened the bids for a mini derrick truck for the Electric Distribution Department and read them aloud as follows:

- |    |   |              |
|----|---|--------------|
| 1. | Thiermann Industries, Inc.<br>Cedarburg, WI | \$92,339.00  |
| 2. | Skylift, Inc.                               | \$73,9225.50 |

Lorraine, OH

\$ 4,555.00 option #1 – diesel engine  
\$ 750.00 option #2 – generator

Attorney Hemmerlein acknowledged there was a typographical error made in their bid.

3. Nesco Sales & Rentals \$77,720.00  
Bluffton, IN

Mike Harder made a motion for Jerry Schitter to take the bids under advisement and report back at the next meeting. Mike Schwenk seconded the motion. Motion approved, 6-0.

This was included in Schitter's 2004 Capital Expenditure Plan.

**QUOTE OPENING: AIR MAKE UP UNIT – WATER FILTRATION BUILDING** (A-99)

Mike Oeding explained that the purpose of the air make up unit was to remove chlorine from the building.

Sandy Hemmerlein opened the quotes and read them aloud as follows:

1. Messmer Mechanical \$27,200.00
2. Kunkel Plumbing, Heating & Air Conditioning – did not submit a quote, but sent a letter stating their schedule did not permit them to bid the job.
3. Schmidt Contracting \$20,992.00  
250.00 aluminum for ductwork

Dennis Hasenour made a motion for Mike Oeding to take the quotes under advisement and report back at the next meeting. Ed Kreilein seconded the motion. Motion approved, 6-0.

This was included in Oeding's 2004 Capital Expenditure Plan.

**APPROVAL OF MINUTES** (A-137)

Chairman Ken Sendelweck presented the minutes of the March 15, 2004 regular meeting and there being no corrections or amendments, asked for a motion to accept. Mike Schwenk made a motion to approve the minutes of the March 15<sup>th</sup> meeting as presented. Greg Krodel seconded the motion. Motion approved, 6-0.

Chairman Sendelweck presented the minutes of the March 29, 2004 special meeting and there being no corrections or amendments, asked for a motion to accept. Ed Kreilein made a motion to approve the minutes of the March 29<sup>th</sup> meeting as presented. Mike Harder seconded the motion. Motion approved, 6-0.

## **PUBLIC HEARING – SALE OF TERRY LANE PROPERTY (A-176)**

Chairman Sendelweck opened the public hearing at 7:10 PM, as advertised, on the potential sale of the utility property at 2350 Terry Lane.

Sandy Hemmerlein stated that notice was published in the Herald on April 2, 2004. This is for the old water administration building at 2350 Terry Lane.

Mayor Schmitt stated that all of the other departments were aware of the property and were given ample time to express a permanent interest in the property.

There were no public comments.

Ed Kreilein made a motion to close the public hearing. Dennis Hasenour seconded the motion. Motion approved, 6-0.

## **DISCUSSIONS ON SEWER EXTENSION PROJECT – DIVISION A – PERTAINING TO LIQUIDATED DAMAGES (A-221)**

Ed Tinkle of Commonwealth Engineers came before the Board to discuss the issues of the Whoderville Sewer Extension Project. He introduced Patrick Stalker, Project Manager for the Whoderville project, and Jeff Reynolds, President of Reynolds, Inc.

Mr. Tinkle stated the issue is that in January, 2004, a final pay estimate of \$23,901.59 was received from Reynolds, Inc for the Eastown/Whoderville Sewer Extension Project. Commonwealth sent that final pay estimate to the City, with the February breakdown, for payment, and indicated that pursuant to a meeting that they had, the payment was reduced by \$17,998.00 to account for potential liquidated damages, and suggested, for consideration by the Utility Service Board, that \$5,903.59 should be the final payment. Reynolds, Inc. became aware of that reduction and sent a letter to Sandy Hemmerlein indicating their objection to the withholding of liquidated damages on the project.

Mr. Tinkle said that at a pre-construction meeting held in March 2002, the Reynolds contract for the Eastown/Whoderville project called for substantial completion within 120 days, or by July 18, 2002. At the pre-construction meeting it was noted that the City wanted to proceed with the acquisition of a pump manufactured by Barnes Equipment as opposed to an E1 pump on which Reynolds based their bid. At that meeting Tom Lents was very specific that he wanted to proceed with the Barnes pump. At that time it was indicated there could very well be a time issue in getting the Barnes pump and making that change. Mr. Tinkle said looking back; the City probably should have entered into a change order for the time extension because it resulted in not being able to be substantially complete by July 18, 2002. Mr. Tinkle said in fact, pumps were still being delivered as late as July 22<sup>nd</sup>.

He said since there was no change order authorized by the Board, Commonwealth started notifying the City, with their August invoices, that their costs and time incurred, relative to inspections on the Whoderville project, was possibly subject to liquidated damages in that they were past that date of substantial completion, and did not have a contractual document to indicate anything different than

that. Consequently, (Reynolds') pay estimate #8 and #10 for (resulted in) inspection time on the project, which totaled about \$17,998.00, accounted for 380 man-hours of time between July 18<sup>th</sup> and September 11<sup>th</sup>, the actual date of substantial completion.

Mr. Tinkle said since Commonwealth didn't have a change order to justify the time extension, they just basically held on to it, and it was agreed to not make a decision on assessing liquidated damages until the project was completed. They didn't receive a final payment request from Reynolds in April, 2003 when the job was done because "things just kind of fell through the cracks" in Reynolds' office. Commonwealth interpreted that non-action by Reynolds as their way of thinking the liquidated damages issue would be forgotten. Commonwealth notified the Utility Service Board on the February, 2004 payment request that this issue was still pending.

Mr. Tinkle said during the July 18<sup>th</sup> to September 11<sup>th</sup> period, Commonwealth assessed 380 man-hours, of which, based on the daily logs, 255.75 man hours were on line related work, 102 man-hours were spent on the pumps, and 22.25 man-hours were spent on paperwork. Mr. Tinkle said the question now is how much time was spent after the last grinder pump was installed. The completion date of the grinder pumps was between August 30<sup>th</sup> and September 6<sup>th</sup>. During that time Commonwealth inspectors charged 26.5 hours minimum on line work, and 63.5 hours, if you go all the way back to the September 1<sup>st</sup> date. That equates to, on a dollar basis, a range of \$1,678.99 to \$4,023.23, which was billed to the City. The amount of \$17,998.00, based upon conversations with the City and based upon the logs, can be narrowed back down to \$1,678.99, on the low side, to \$4,023.23, on the high side, but it is totally dependent upon when that last pump was placed into operation.

Jeff Reynolds, President of Reynolds, Inc. came before the Board to present his position on the issue. He stated that with full knowledge that the project was going to be delayed by the pump manufacturers, we were directed to proceed with that change. Their construction schedule was shifted, in good faith, to accommodate pump delivery. The original contract duration was 120 days, and the system was installed in 102 days. All of the service lines were postponed and installed around the delivery of the grinder pumps. He said had all of the service line work been done right away, they would have worked for a couple of months and left the job, and they would have incurred costs for demobilization, remobilization, etc. The only way to efficiently construct the project, not cost themselves any money, and accommodate the City's request, was to shift the construction schedule. Mr. Reynolds said the only mistake they made was proceeding in good faith instead of demanding an extension of time. He said he feels fault lies with all parties. He said he believes the entire delay was caused by an owner directed change that was beyond his control, so if there were any costs associated with the delay, he does not believe they would be his responsibility. He also said he believes the City should not have incurred any extra costs because the project was completed in 102 days, and the total inspection services should have been under budget.

Chairman Sendelweck said he tends to agree with Mr. Reynolds and the frustrating part is that obviously communication has broken down in the last year, and had we known then what we know today, this discussion wouldn't have been necessary.

Mike Schwenk said it was his understanding that we incurred additional costs because of the delay. Mr. Tinkle said they were not extra costs, they were just costs incurred outside of a proper contract.

Mike Schwenk made a motion to make final payment of \$23,901.59 as per stated in the contract document, assessing no liquidated damages, and to release the retainage, and to prepare a change order to officially extend the time. Mike Harder seconded the motion. Motion approved, 6-0.

#### **WASTEWATER PLANNING COMMITTEE REPORT (A-494)**

Mike Harder, Chairman of the Wastewater Planning Committee, reported the committee met on April 12<sup>th</sup> to discuss the liquidated damages issue, but they didn't have the correct information.

#### **COMMONWEALTH – REQUEST FOR CHANGE ORDER – ELECTRIC BUILDING CONTRACT (A-497)**

Ed Tinkle came before the Board to discuss the change order to their contract for the Electric Distribution Building contract.

He presented Contract Amendment #2 increasing the estimated not to exceed amount originally budgeted for construction engineering from \$10,500.00 to \$16,000.00. Two items make up the increase: 1) Differing site conditions. A sandstone rock ledge was encountered during construction of the building and that necessitated the construction of a retaining wall; and, 2) Increased amount of time from 4 months to 9 months.

Mr. Tinkle said actual costs already incurred due to the previously stated conditions are \$4,200.00 for the design change and \$1,300.00 estimated to complete the work on construction related services.

Mr. Tinkle said they have incurred \$1,150.31 over the original contract amount of \$10,500.00. He explained if they would only get approval on the increase of \$4,200.00 for the design work, that would still leave them with about \$3,000.00 to complete the work with the budgeted funds, which should be enough if they don't run into any more problems.

Ken Schultz stated that he reviewed the contract and what has been paid so far on the contract. On the environmental portion, we were contracted for an estimated \$7,000.00, of which we've paid \$6,913.04; on the construction engineering portion we were contracted for an estimated \$10,500.00, of which we've paid \$9,684.36; and, the design and bidding portion of the contract was for a firm lump sum of \$43,000.00, which we have paid. Schultz said now Mr. Tinkle is saying the \$4,200.00 of this amendment is related to design work, which was quoted as a firm \$43,000.00.

Mr. Tinkle said Schultz is reading the contract correctly, but this is a differing site condition and they did not foresee the need to construct the retaining wall. Had they foreseen needing the retaining wall, it would have been included in that lump sum price.

Ken Schultz asked if the site investigation work was done before or after the contract was signed. Mr. Tinkle replied that in all likelihood, it was done after. Mr. Tinkle said if the borings would have revealed the different site conditions, he would have come back to the Board and asked to change the \$43,000.00, but it was not discovered until later on in the project.

Mike Schwenk said he would like to see a breakdown of the \$4,200.00.

Mike Schwenk made a motion to table the contract amendment request until the Board receives a breakdown of the \$4,200.00. Greg Krodel seconded the motion. Motion approved, 6-0.

#### **AED PURCHASE** (A-699)

Charlie Schneider, Personnel and Safety Director, came before the Board to request approval to purchase 3 AED (Automatic External Defibrillator) units for the Electric Distribution Department.

Schneider explained the City already has an AED program, using Zoll brand units, in place. He is working with Dr. Dean Beckman who heads Memorial Hospital Defibrillator Program. Our program is operational in combination with Dr. Beckman's program. The standardized Zoll brand units are used throughout the City and are used in conjunction with Memorial's emergency medical care facility.

He explained when the AED unit is used, it accompanies the victim to the hospital where doctors can remove the data computerized card from our AED unit, plug it into their software program, and pull up critical medical information that has been stored on that database card.

Schneider asked for Board approval to purchase 3 AED units without seeking other quotes.

He stated the hospital receives large discounts from Zoll, which they in turn pass on to the City. The total price for 3 AED units, plus batteries, and CPR pads would be \$3,651.00.

This was included in Jerry Schitter's 2004 Capital Expenditure Plan.

Ed Kreilein made a motion to allow the purchase of 3 Zoll brand AED units as presented. Dennis Hasenour seconded the motion. Motion approved, 6-0.

Schneider said that all Electric Distribution employees would receive the Medic First Aid and AED training, enabling them to administer CPR and AED to victims.

The training that the City employees receive, under the American Heart Association guidelines, will protect us from any liability.

#### **UPDATE – CONSTRUCTION PROJECT – ELECTRIC DISTRIBUTION** (B-18)

Jerry Schitter stated they have moved into the new line warehouse and are fully operational there. Everything has been moved out of the old line warehouse.

The contractor is about 1 month ahead of schedule.

#### **NEW PHONE SYSTEM – ELECTRIC DISTRIBUTION** (B-41)

Jerry Schitter stated his present phone system is about 15 years old and has found out from a Matrix representative they can no longer get parts for his system.

Schitter asked for approval to seek bids for a new phone system. He said Matrix estimated a new system would cost between \$8,000 - \$9,000.

Ed Kreilein made a motion to allow Jerry Schitter to seek bids on a new phone system. Mike Schwenk seconded the motion. Motion approved, 6-0.

#### **POWER PLANT UPDATE** (B-105)

Power Plant Superintendent Mike Gadlage reported that the Power Plant was forced to shut down one day prior to the April 15<sup>th</sup> scheduled shut down date due to a tube leak in the economizer section. He said they would be back on-line by May 12<sup>th</sup>.

#### **ELECTRIC PLANNING COMMITTEE REPORT** (B-127)

Mike Schwenk, Chairman of the Electric Planning Committee, stated there had not been a meeting to report on.

#### **RECOMMENDATION TO MAYOR & CITY COUNCIL ON SALE OF 2350 TERRY LANE PROPERTY** (B-130)

Mike Schwenk made a motion to recommend to the Mayor and the City Council to dispose of the 2350 Terry Lane property. Greg Krodel seconded the motion. Motion approved, 6-0.

Sandy Hemmerlein explained that after this there would be a resolution for the sale since it is over \$50,000, which will be presented to the Council on Wednesday. If it is approved, we will start looking for dates to hold an auction. She said we would have to get at least 90% of the appraised value or we would have to re-advertise in order to sell it for less than 90% of the appraised value.

#### **RESULTS OF CO. RD. 100 S. WATER LINE INSTALLTION BID OPENING** (B-181)

Mike Oeding stated that City Engineer Chad Hurm reviewed the bids and recommended awarding the contract to the low bidder, Lechner's, Inc, for \$48,298.70.

Oeding said next month he would probably present a change order on this project because they discovered an additional gas line that will not allow them to go in front of the regulator station. They will be forced to route the line around the station, which will be safer.

Mike Schwenk made a motion to accept Lechner's as low bidder for \$48,298.70. Mike Harder seconded the motion. Motion approved, 6-0.

#### **RESULTS OF BACKHOE REPLACEMENT QUOTE OPENING** (B-204)

Mike Oeding reported the quote of \$9,300.00 from Hopf Equipment met the specifications.

Ed Kreilein made a motion to accept the low quote of \$9,300.00 from Hopf Equipment. Greg Krodel seconded the motion. Motion approved, 6-0.

### **UPDATE – WATER PROJECTS** (B-210)

**Top of “Y” Project** – Project is 90% complete on the mains and services are about 20% complete. He presented Change Order #3 for \$1,089.00 to move a fire hydrant across the road. Mike Oeding said when they were setting the fire hydrant; a concrete vault owned by Verizon was discovered.

Dennis Hasenour made a motion to approve Change Order #3 as presented. Mike Schwenk seconded the motion. Motion approved, 6-0.

**Clearwell Project** – Miscellaneous work is complete except for resolving the street repair issue. The clearwell has been operational for about 3 weeks. Oeding said it provides them with 350,000 gallons of extra ground storage.

**Water Tank Project** – Interior painting is complete. Exterior blasting will be completed as the weather, especially the wind, permits. It will take about 1 month to finish the intermediate and final coats of paint and allow them to cure before the cathodic protector can be installed.

The tank should be back on-line by May, in time for the summer capacity.

### **UPDATE – GAS PROJECTS** (B-266)

**Top of “Y” Project** – Project is 70% complete on the mains and services.

**Jasper South Project** – Project is on hold due to Columbus Oil Exploration’s problem with INDOT.

### **ENGINEER FOR NEWTON ST. WATER TANK** (B-276)

Mike Oeding reported he would send out RFP’s for engineers to bid on the Newton St. Water Tank project this week after he gets the insurance requirements attached. He hopes to open them at the May meeting.

### **OLD WATER PLANT LOT** (B-299)

Mike Oeding asked to table this issue until a later meeting.

### **WATER CUSTOMER NOTICES** (B-300)

Mike Oeding reported that a stuffer is being included in the April utility bills explaining radio read water meters and notifying customers that contractors may be in their neighborhoods changing out meters.

Oeding also reported that Consumer Confidence Reports would be included in the June utility bills.

### **RISK MANAGEMENT PLAN – WATER PLANT** (B-311)

Mike Oeding said the Federal EPA is mandating a new Risk Management Plan and the deadline is June 21, 2004.

Oeding said Commonwealth did the RMP for the old water plant and asked for Board approval to retain Commonwealth to do the update of the RMP at the new plant.

Ed Tinkle said Commonwealth did the old RMP in 1999 for \$6,800.00 and this new update could be done for a price not to exceed \$5,800.00.

Sandy Hemmerlein reminded the Board that they entered into an agreement with Commonwealth for Professional Engineering Services in October, 1991. The paperwork that they prepared is an authorization that refers to that agreement since that agreement was for anything under \$10,000. Hemmerlein said she wants to make sure that if we rely on that 1991 agreement, that insurance is maintained throughout the course of the agreement.

Mike Schwenk made a motion to retain Commonwealth for a price not to exceed \$5,800.00, with the condition that the insurance, as on file today, is maintained throughout the course of the agreement. Ed Kreilein seconded the motion. Motion approved, 6-0.

### **MITCHELL & STARK** (B-372)

Ed Tinkle reported that a letter was received from Mitchell & Stark regarding their position on the water main break during the water project work.

Mr. Tinkle presented a letter dated April 19, 2004 from Commonwealth to the Utility Service Board stating that they do not agree with the position they have taken against the City.

Also, Mr. Tinkle said they want to verify whether the certificate of substantial completion has been issued. If it has not been issued, we want to resolve this issue before the certificate of substantial completion is approved.

### **GAS PLANNING COMMITTEE REPORT** (B-395)

Dennis Hasenour, Chairman of the Gas Planning Committee, stated there had not been a meeting to report on.

### **WATER PLANING COMMITTEE REPORT** (B-396)

Ken Sendelweck stated there had not been a Water Planning Committee meeting to report on.

### **FINANCE COMMITTEE REPORT & PRESENTATION OF CLAIM DOCKET** (B-399)

Ed Kreilein reported the Finance Committee had met and reviewed the claims on the Claim Docket.

Also presented were claims on behalf of Harrison & Moberly, LLP in the amount of \$2,590.20, representing legal expenses associated with the Titan Contracting default for the Wastewater Project.

SRF and BIF funds have been exhausted, therefore after Utility Service Board approval, the above referenced claim will be paid from Wastewater funds.

Ken Schultz then asked the committee to recommend approval to the Board of the Final Payment Request from Deig Brothers Lumber & Construction for the UV Improvements project in the amount of \$965.00 and for release of retainage in the amount of \$10,700.45. Tom Lents has confirmed that the project is complete and that all punch list items have been accomplished to his satisfaction.

Kreilein said the Finance Committee recommended approval of the claims and release of the retainage as presented.

Mike Schwenk made a motion to approve the claims as presented. Dennis Hasenour seconded the motion. Motion approved, 6-0.

Mike Schwenk made a motion to approve the release of the retainage to Deig Brothers Lumber & Construction as presented. Ed Kreilein seconded the motion. Motion approved, 6-0.

#### **WATER METER INSTALLATIONS** (B-431)

Councilman Butch Schitter asked Mike Oeding if the contractors doing the water meter change outs are wearing identification badges of any kind. Oeding replied they are wearing a regular City badge.

#### **VERIZON VAULT** (B-442)

Councilman Butch Schitter asked if Verizon is required to provide GIS information showing where their equipment is located. Oeding replied that they knew the vault was there, but they didn't know how big it was or how deep it was.

There being no further business to come before the Board, the meeting was adjourned at 8:32 PM upon motion by Dennis Hasenour and second by Ed Kreilein. Motion approved, 6-0.

Attest: \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Chairman